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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/704,364 | 11/02/2000 | Joseph M. Iglesias | ROYCE-66837 | 4745 |
| 24201 | 7590 | 10/31/2006 | EXAMINER | |
| FULWIDER PATTON 6060 CENTER DRIVE 10TH FLOOR LOS ANGELES, CA 90045 | | | BROWN, MICHAEL A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3772 | |

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/704,364

Applicant(s)

IGLESIAS ET AL.

Examiner

Michael Brown

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45, 47-55, 60-66, 68, 69, 77-81, 84-95 and 97-99 is/are pending in the application.
- 4a) Of the above claim(s) 1-33, 47-55, 77-81, 85-90 and 97-99 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 60-66, 68, 69, 84 and 91 is/are allowed.
- 6) ☒ Claim(s) 34, 35, 37-40, 42, 44, 45 and 92-95 is/are rejected.
- 7) ☒ Claim(s) 36, 41 and 43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 34-35, 37-40, 42, 44-45 and 94-95 rejected under 35 U.S.C. 103(a) as being unpatentable over Oetting in view of Moro.

Oetting discloses in figures 1-5 a versatile wrist support comprising a molded nylon exostructure supplying support 10, for resisting motion of the wrist, the molder nylon exostructure includes a hinged wedge portion 12, (the web is hinged at 51 and x shows the axis of rotation that is non-coplanar with the exostructure support), a padded member (col. 3, lines 33-34), extending about at least a portion of the web portion (the padded member extends over the top of (about) the web area, the molded nylon exostructure support includes separate pieces (12, 14, 16), the wrist support includes a palm portion (the web portion 12 provides a palm portion) with an over mold (the entire device is an over mold), the support includes a carpal tunnel syndrome opening (the opening between (14 and 24 in fig. 4), a thumb aperture (provides between 26 and 12 in fig. 1), having an over mold (the entire device provides an over mold because it is a molded device) and a strap 30. However, Oetting does disclose the molded exostructure support made of a molded plastic, a padding, flexible, member,

attached to the exostructure support, the exostructure having a recess to receive the padding, the thickness of the exostructure being a non-uniform thickness, or the padding being attached to the exostructure by adhesive. Moro teaches in figures 1-2 an exostructure support made of plastic (polyethylene), having a padding (col. 2, lines 39-42), attached to the exostructure by adhesive (col. 2, lines 43-45), the exostructure is contoured (thus providing a recess that the padding fits into) and the entire exostructure is of a non-uniform thickness (the padding areas and the non-padding areas allows the support to have a different thickness). It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the exostructure support disclosed by Oetting could be fabricated of plastic instead of nylon. The motivation for making the change is both materials are similar in function and mechanical properties (both materials can be molded). The recess and the padding as taught by Moro would be used to provide comfort to the exostructure support. The padding could be attached to the exostructure support by adhesive. The non-uniform thickness would allow the user to apply different amounts of compression to the exostructure support. One of ordinary skill in the art would substitute a rivet for a pivot pin because they are structurally and functionally equivalent.

Claims 92-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims above, and further in view of Slautterback.

Slautterback teaches in figures 4-6 a thumb splint comprising a thumb spica 21 and a stay 31. It would have been obvious to one having ordinary skill in the art

at the time that the invention was made that the thumb spica and the stay as taught by Slutterback could be incorporated into the exostructure support disclosed by Oetting and taught by Moro. The thumb spica and the stay would be used to applied additional support to the thumb and the exostructure support.

Allowable Subject Matter

Claims 36, 41 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 60-66, 84 and 91 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 34-35, 37-40, 42, 44-45 and 92-95 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Primiano discloses a safety glove.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 571-272-4972. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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M. Brown
October 29, 2006

A handwritten signature in black ink, appearing to read "Michael A. Brown", with a long horizontal flourish extending to the right.

MICHAEL A. BROWN
PRIMARY EXAMINER